

117TH CONGRESS
2D SESSION

S. 2129

AN ACT

To promote freedom of information and counter censorship
and surveillance in North Korea, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Otto Warmbier Coun-
3 tering North Korean Censorship and Surveillance Act of
4 2021”.

5 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

6 (a) FINDINGS.—Congress makes the following find-
7 ings:

8 (1) The information landscape in North Korea
9 is the most repressive in the world, consistently
10 ranking last or near-last in the annual World Press
11 Freedom Index.

12 (2) Under the brutal rule of Kim Jung Un, the
13 country’s leader since 2012, the North Korean re-
14 gime has tightened controls on access to informa-
15 tion, as well as enacted harsh punishments for con-
16 sumers of outside media, including sentencing to
17 time in a concentration camp and a maximum pen-
18 alty of death.

19 (3) Such repressive and unjust laws sur-
20 rounding information in North Korea resulted in the
21 death of 22-year-old United States citizen and uni-
22 versity student Otto Warmbier, who had traveled to
23 North Korea in December 2015 as part of a guided
24 tour.

25 (4) Otto Warmbier was unjustly arrested, sen-
26 tenced to 15 years of hard labor, and severely mis-

1 treated at the hands of North Korean officials.
 2 While in captivity, Otto Warmbier suffered a serious
 3 medical emergency that placed him into a comatose
 4 state. Otto Warmbier was comatose upon his release
 5 in June 2017 and died 6 days later.

6 (5) Despite increased penalties for possession
 7 and viewership of foreign media, the people of North
 8 Korean have increased their desire for foreign media
 9 content, according to a survey of 200 defectors con-
 10 cluding that 90 percent had watched South Korean
 11 or other foreign media before defecting.

12 (6) On March 23, 2021, in an annual resolu-
 13 tion, the United Nations General Assembly con-
 14 demned “the long-standing and ongoing systematic,
 15 widespread and gross violations of human rights in
 16 the Democratic People’s Republic of Korea” and ex-
 17 pressed grave concern at, among other things, “the
 18 denial of the right to freedom of thought, conscience,
 19 and religion . . . and of the rights to freedom of
 20 opinion, expression, and association, both online and
 21 offline, which is enforced through an absolute mo-
 22 nopoly on information and total control over orga-
 23 nized social life, and arbitrary and unlawful state
 24 surveillance that permeates the private lives of all
 25 citizens”.

1 (7) In 2018, Typhoon Yutu caused extensive
2 damage to 15 broadcast antennas used by the
3 United States Agency for Global Media in Asia, re-
4 sulting in reduced programming to North Korea.
5 The United States Agency for Global Media has re-
6 built 5 of the 15 antenna systems as of June 2021.

7 (b) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that—

9 (1) in the event of a crisis situation, particu-
10 larly where information pertaining to the crisis is
11 being actively censored or a false narrative is being
12 put forward, the United States should be able to
13 quickly increase its broadcasting capability to deliver
14 fact-based information to audiences, including those
15 in North Korea; and

16 (2) the United States International Broad-
17 casting Surge Capacity Fund is already authorized
18 under section 316 of the United States International
19 Broadcasting Act of 1994 (22 U.S.C. 6216), and ex-
20 panded authority to transfer unobligated balances
21 from expired accounts of the United States Agency
22 for Global Media would enable the Agency to more
23 nimble respond to crises.

24 **SEC. 3. STATEMENT OF POLICY.**

25 It is the policy of the United States—

1 (1) to provide the people of North Korea with
2 access to a diverse range of fact-based information;

3 (2) to develop and implement novel means of
4 communication and information sharing that in-
5 crease opportunities for audiences in North Korea to
6 safely create, access, and share digital and non-dig-
7 ital news without fear of repressive censorship, sur-
8 veillance, or penalties under law; and

9 (3) to foster and innovate new technologies to
10 counter North Korea’s state-sponsored repressive
11 surveillance and censorship by advancing internet
12 freedom tools, technologies, and new approaches.

13 **SEC. 4. UNITED STATES STRATEGY TO COMBAT NORTH KO-**
14 **REA’S REPRESSIVE INFORMATION ENVIRON-**
15 **MENT.**

16 (a) IN GENERAL.—Not later than 180 days after the
17 date of the enactment of this Act, the President shall de-
18 velop and submit to Congress a strategy on combating
19 North Korea’s repressive information environment.

20 (b) ELEMENTS.—The strategy required by subsection
21 (a) shall include the following:

22 (1) An assessment of the challenges to the free
23 flow of information into North Korea created by the
24 censorship and surveillance technology apparatus of
25 the Government of North Korea.

1 (2) A detailed description of the agencies and
2 other government entities, key officials, and security
3 services responsible for the implementation of North
4 Korea's repressive laws regarding foreign media con-
5 sumption.

6 (3) A detailed description of the agencies and
7 other government entities and key officials of foreign
8 governments that assist, facilitate, or aid North Ko-
9 rea's repressive censorship and surveillance state.

10 (4) A review of existing public-private partner-
11 ships that provide circumvention technology and an
12 assessment of the feasibility and utility of new tools
13 to increase free expression, circumvent censorship,
14 and obstruct repressive surveillance in North Korea.

15 (5) A description of and funding levels required
16 for current United States Government programs and
17 activities to provide access for the people of North
18 Korea to a diverse range of fact-based information.

19 (6) An update of the plan required by section
20 104(a)(7)(A) of the North Korean Human Rights
21 Act of 2004 (22 U.S.C. 7814(a)(7)(A)).

22 (7) A description of Department of State pro-
23 grams and funding levels for programs that promote
24 internet freedom in North Korea, including moni-
25 toring and evaluation efforts.

1 (8) A description of grantee programs of the
2 United States Agency for Global Media in North
3 Korea that facilitate circumvention tools and broad-
4 casting, including monitoring and evaluation efforts.

5 (9) A detailed assessment of how the United
6 States International Broadcasting Surge Capacity
7 Fund authorized under section 316 of the United
8 States International Broadcasting Act of 1994 (22
9 U.S.C. 6216) has operated to respond to crisis situa-
10 tions in the past, and how authority to transfer un-
11 obligated balances from expired accounts would help
12 the United States Agency for Global Media in crisis
13 situations in the future.

14 (10) A detailed plan for how the authorization
15 of appropriations under section 7 will operate along-
16 side and augment existing programming from the
17 relevant Federal agencies and facilitate the develop-
18 ment of new tools to assist that programming.

19 (c) FORM OF STRATEGY.—The strategy required by
20 subsection (a) shall be submitted in unclassified form, but
21 may include the matters required by paragraphs (2) and
22 (3) of subsection (b) in a classified annex.

1 **SEC. 5. IMPOSITION OF SANCTIONS WITH RESPECT TO PER-**
 2 **SONS RESPONSIBLE FOR NORTH KOREA'S RE-**
 3 **PRESSIVE CENSORSHIP AND SURVEILLANCE**
 4 **STATE.**

5 (a) IN GENERAL.—The President may impose the
 6 following sanctions with respect to any foreign person that
 7 the President determines knowingly engaged in, facili-
 8 tated, or was responsible for censorship by the Govern-
 9 ment of North Korea or the Workers' Party of Korea iden-
 10 tified under paragraph (2) or (3) of section 4(b):

11 (1) BLOCKING OF PROPERTY.—The President
 12 may exercise all of the powers granted to the Presi-
 13 dent under the International Emergency Economic
 14 Powers Act (50 U.S.C. 1701 et seq.) to the extent
 15 necessary to block and prohibit all transactions in
 16 property and interests in property of the foreign per-
 17 son if such property and interests in property are in
 18 the United States, come within the United States, or
 19 are or come within the possession or control of a
 20 United States person.

21 (2) INELIGIBILITY FOR VISAS, ADMISSION, OR
 22 PAROLE.—

23 (A) VISAS, ADMISSION, OR PAROLE.—In
 24 the case of an alien, the alien may be—

25 (i) inadmissible to the United States;

1 (ii) ineligible to receive a visa or other
2 documentation to enter the United States;
3 and

4 (iii) otherwise ineligible to be admitted
5 or paroled into the United States or to re-
6 ceive any other benefit under the Immigra-
7 tion and Nationality Act (8 U.S.C. 1101 et
8 seq.).

9 (B) CURRENT VISAS REVOKED.—

10 (i) IN GENERAL.—An alien described
11 in subparagraph (A) may be subject to rev-
12 ocation of any visa or other entry docu-
13 mentation regardless of when the visa or
14 other entry documentation is or was
15 issued.

16 (ii) EFFECT.—A revocation under
17 clause (i) shall—

18 (I) take effect consistent with
19 section 221 of the Immigration and
20 Nationality Act (8 U.S.C. 1201); and

21 (II) cancel any other valid visa or
22 entry documentation that is in the
23 alien's possession.

24 (b) IMPLEMENTATION; PENALTIES.—

1 (1) IMPLEMENTATION.—The President may ex-
2 ercise all authorities provided under sections 203
3 and 205 of the International Emergency Economic
4 Powers Act (50 U.S.C. 1702 and 1704) to carry out
5 this section.

6 (2) PENALTIES.—A person that violates, at-
7 tempts to violate, conspires to violate, or causes a
8 violation of subsection (a)(1) or any regulation, li-
9 cense, or order issued to carry out that subsection
10 shall be subject to the penalties set forth in sub-
11 sections (b) and (c) of section 206 of the Inter-
12 national Emergency Economic Powers Act (50
13 U.S.C. 1705) to the same extent as a person that
14 commits an unlawful act described in subsection (a)
15 of that section.

16 (c) NATIONAL SECURITY WAIVER.—The President
17 may waive the imposition of sanctions under subsection
18 (a) with respect to a person if the President—

19 (1) determines that such a waiver is in the na-
20 tional security interests of the United States; and

21 (2) submits to the appropriate congressional
22 committees a notification of the waiver and the rea-
23 sons for the waiver.

24 (d) EXCEPTIONS.—

1 (1) INTELLIGENCE ACTIVITIES.—This section
2 shall not apply with respect to activities subject to
3 the reporting requirements under title V of the Na-
4 tional Security Act of 1947 (50 U.S.C. 3091 et seq.)
5 or any authorized intelligence activities of the United
6 States.

7 (2) LAW ENFORCEMENT ACTIVITIES.—Sanc-
8 tions under this section shall not apply with respect
9 to any authorized law enforcement activities of the
10 United States.

11 (3) EXCEPTION TO COMPLY WITH INTER-
12 NATIONAL AGREEMENTS.—Subsection (a)(2) shall
13 not apply with respect to the admission of an alien
14 to the United States if such admission is necessary
15 to comply with the obligations of the United States
16 under the Agreement regarding the Headquarters of
17 the United Nations, signed at Lake Success June
18 26, 1947, and entered into force November 21,
19 1947, between the United Nations and the United
20 States, under the Convention on Consular Relations,
21 done at Vienna April 24, 1963, and entered into
22 force March 19, 1967, or under other international
23 agreements.

24 (4) EXCEPTION RELATING TO IMPORTATION OF
25 GOODS.—

1 (A) IN GENERAL.—The authority or a re-
 2 quirement to impose sanctions under this sec-
 3 tion shall not include the authority or a require-
 4 ment to impose sanctions on the importation of
 5 goods.

6 (B) GOOD DEFINED.—In this paragraph,
 7 the term “good” means any article, natural or
 8 manmade substance, material, supply, or manu-
 9 factured product, including inspection and test
 10 equipment, and excluding technical data.

11 (e) DEFINITIONS.—In this section:

12 (1) ADMISSION; ADMITTED; ALIEN.—The terms
 13 “admission”, “admitted”, and “alien” have the
 14 meanings given those terms in section 101 of the
 15 Immigration and Nationality Act (8 U.S.C. 1101).

16 (2) APPROPRIATE CONGRESSIONAL COMMIT-
 17 TEES.—The term “appropriate congressional com-
 18 mittees” means—

19 (A) the Committee on Foreign Relations,
 20 the Committee on Banking, Housing, and
 21 Urban Affairs, and the Select Committee on In-
 22 telligence of the Senate; and

23 (B) the Committee on Foreign Affairs, the
 24 Committee on Financial Services, and the Per-

1 manent Select Committee on Intelligence of the
2 House of Representatives.

3 (3) FOREIGN PERSON.—The term “foreign per-
4 son” means any person that is not a United States
5 person.

6 (4) UNITED STATES PERSON.—The term
7 “United States person” means—

8 (A) a United States citizen or an alien law-
9 fully admitted to the United States for perma-
10 nent residence;

11 (B) an entity organized under the laws of
12 the United States or any jurisdiction within the
13 United States; or

14 (C) any person in the United States.

15 **SEC. 6. REPORT ON ENFORCEMENT OF SANCTIONS WITH**
16 **RESPECT TO NORTH KOREA.**

17 (a) IN GENERAL.—Not later than 180 days after the
18 date of the enactment of this Act, and annually thereafter
19 through 2024, the Secretary of State and the Secretary
20 of the Treasury shall jointly submit to the appropriate
21 congressional committees (as defined in section 5(e)) a re-
22 port on sanctions-related activities and enforcement un-
23 dertaken by the United States Government with respect
24 to North Korea during the period described in subsection

25 (b) that includes—

1 (1) an assessment of activities conducted by
 2 persons in North Korea or the Government of North
 3 Korea that would require mandatory designations
 4 pursuant to the North Korea Sanctions and Policy
 5 Enhancement Act of 2016 (22 U.S.C. 9201 et seq.);
 6 and

7 (2) sanctions-related enforcement or other sanc-
 8 tions-related actions undertaken by the United
 9 States Government pursuant to that Act.

10 (b) PERIOD DESCRIBED.—The period described in
 11 this subsection is—

12 (1) in the case of the first report required by
 13 subsection (a), the period beginning on January 1,
 14 2021, and ending on the date on which the report
 15 is required to be submitted; and

16 (2) in the case of each subsequent report re-
 17 quired by subsection (a), the one-year period pre-
 18 ceding submission of the report.

19 **SEC. 7. PROMOTING FREEDOM OF INFORMATION AND**
 20 **COUNTERING CENSORSHIP AND SURVEIL-**
 21 **LANCE IN NORTH KOREA.**

22 (a) AUTHORIZATION OF APPROPRIATIONS.—There
 23 are authorized to be appropriated to the United States
 24 Agency for Global Media \$10,000,000 for each of fiscal

1 years 2022 through 2026 to provide increased broad-
2 casting and grants for the following purposes:

3 (1) To promote the development of internet
4 freedom tools, technologies, and new approaches, in-
5 cluding both digital and non-digital means of infor-
6 mation sharing related to North Korea.

7 (2) To explore public-private partnerships to
8 counter North Korea’s repressive censorship and
9 surveillance state.

10 (3) To develop new means to protect the pri-
11 vacy and identity of individuals receiving media from
12 the United States Agency for Global Media and
13 other outside media outlets from within North
14 Korea.

15 (4) To bolster existing programming from the
16 United States Agency for Global Media by restoring
17 the broadcasting capacity of damaged antennas
18 caused by Typhoon Yutu in 2018.

19 (b) ANNUAL REPORTS.—Section 104(a)(7)(B) of the
20 North Korean Human Rights Act of 2004 (22 U.S.C.
21 7814(a)(7)(B)) is amended—

22 (1) in the matter preceding clause (i)—

23 (A) by striking “1 year after the date of
24 the enactment of this paragraph” and inserting
25 “September 30, 2022”; and

1 (B) by striking “Broadcasting Board of
2 Governors” and inserting “Chief Executive Of-
3 ficer of the United States Agency for Global
4 Media”; and

5 (2) in clause (i), by inserting after “this sec-
6 tion” the following: “and sections 4 and 7 of the
7 Otto Warmbier Countering North Korean Censor-
8 ship and Surveillance Act of 2021”.

Passed the Senate June 16, 2022.

Attest:

Secretary.

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